

CHAPTER VI

COMPROMISE OF CLASSIFIED INFORMATION

6-100 Policy

Compromise of classified information presents a threat to the national security. Once a compromise is known to have occurred, the seriousness of damage to U.S. interests must be determined and appropriate measures taken to negate or minimize the adverse effect of such compromise. When possible, action also should be taken to regain custody of the documents or material that were compromised. In all cases, however, appropriate action must be taken to identify the source and reason for the compromise and remedial action taken to ensure further compromises do not occur. The provisions of DoD Instruction 5240.4 and DoD Directive 5210.50 (references (00) and (pp)) apply to compromises covered by this Chapter.

6-101 Cryptographic and Sensitive Compartmented Information

a. The procedures for handling compromises of cryptographic information are set forth in NACSI 4006 (reference (kkk)) and implementing instructions.

b. The procedures for handling compromises of SCI information are set forth in DoD TS-5105.21-M-2 (reference (ggg)) and DoD C-5105.21-M-1 (reference (hhh)) .

c. REPORTS OF SUSPECTED OR COMPROMISED CRYPTOGRAPHIC AND SENSITIVE COMPARTMENTED INFORMATION SHALL BE COORDINATED WITH THE DIRECTOR, PSD.

6-102 Responsibility of Discoverer

a. Any person who has knowledge of the loss or possible compromise of classified information shall immediately report such fact to the security manager of the person's activity (see subsection 13-304) or to the commanding officer or head of the activity in the security manager's absence.

b. Any person who discovers classified information out of proper control shall take custody of such information and safeguard it in an appropriate manner, and shall notify immediately an appropriate security authority.

c. **HEADS** OF OSD COMPONENTS SHALL **REPORT** TO PSD, WHS, COMPROMISES OR VIOLATIONS DISCOVERED WITHIN THEIR OFFICES AND IN **THE** MEDIA THAT INVOLVE CLASSIFIED INFORMATION OR PROJECTS FOR WHICH THEY HAVE PRIMARY RESPONSIBILITY. FAILURE TO REPORT THE POSSIBLE COMPROMISE OR VIOLATION SHALL BE CONSIDERED A VIOLATION OF SECURITY.

d. THE DISCOVERER OF AN ACTUAL OR POSSIBLE COMPROMISE OR VIOLATION SHALL:

1. REPORT **THE** INCIDENT IMMEDIATELY TO THE SECURITY MANAGER OF THE OSD COMPONENT CONCERNED OR TO PSD.

2. PLACE HIS OR HER INITIALS, THE DATE, AND THE TIME OF DISCOVERY ON THE PAGE OF THE UNSECURED CLASSIFIED MATERIAL AND SUBMIT IT TO PSD.

6-103 Preliminary Inquiry

The immediate commander, supervisor, security manager, or other authority shall initiate a preliminary inquiry to determine the circumstances surrounding the loss or possible compromise of classified information. The preliminary inquiry shall establish one of the following:

- a. That a loss or compromise of classified information did not occur;
- b. That a loss or compromise of classified information did occur but the compromise reasonably could not be expected to cause damage to the national security. If, in such instances, the official finds no indication of significant security weakness, the report of preliminary inquiry will be sufficient to resolve the incident and, when appropriate, support the administrative sanctions under subsection 14-101; or
- c. That the loss or compromise of classified information did occur and that the compromise reasonably-could be **expected** to cause damage to the national security'or that the probability of damage to the national security cannot be discounted. Upon this determination, the responsible official shall:
 1. Report the circumstances of the compromise to an appropriate authority as specified in DoD Component instructions;
 2. If the responsible official is the originator, take the action prescribed in subsection 6-106; and
 3. If the responsible 'official is not the originator, notify the originator of the known details of the compromise, including identification of the classified information. If the originator is unknown, notification will be sent to the office specified in DoD Component instructions.

d. THE DIRECTOR, PSD, SHALL:

1. CONDUCT A PRELIMINARY INQUIRY TO DETERMINE WHETHER A COMPROMISE OR **VIOLATION** DID OCCUR.
2. DIRECT THAT AN INVESTIGATION OF A COMPROMISE OR VIOLATION BE CONDUCTED.

6-104 Investigation

If it is determined that further investigation is warranted, such investigation will include the following:

- a. Identification of the source, date, and circumstances of the compromise.
- b. Complete description and classification of each item of classified information compromised;
- c. A thorough search for the classified information;

d. Identification of any person or procedure responsible for the compromise. Any person so identified shall be apprised of the nature and circumstances of the compromise and be provided an opportunity to reply to the violation charged. If such person does not choose to make a statement, this fact shall be included in the report of investigation;

e. An analysis and statement of the known or probable damage to the **national** security that has resulted or may result (see subsection 2-210), and the cause of the loss or compromise; or a statement that compromise did not occur or that there is minimal risk of damage to the national security;

f. An assessment of the possible advantage to foreign powers resulting from the compromise; and

g. A compilation of the data in paragraphs a. through f., above, in a report to the authority ordering the investigation to include an assessment of appropriate corrective, administrative, disciplinary, or legal actions. (Also sees **subsection** 14-104).

h. THE DIRECTOR, PSD, SHALL INITIATE AN INVESTIGATION BY TRANSMITTING A MEMORANDUM AND ATTACHED VIOLATION REPORT TO THE SECURITY MANAGER OF THE OSD COMPONENT CONCERNED.

i. HEADS OF OSD COMPONENTS SHALL:

1. APPOINT AN INVESTIGATING OFFICER TO CONDUCT AN INVESTIGATION INTO THE CIRCUMSTANCES OF THE VIOLATION.

2. SUBMIT THE COMPLETED REPORT OF INVESTIGATION TO PSD WITHIN 20 DAYS OF THE DATE OF THE MEMORANDUM STARTING **THE** INVESTIGATION.

3. IMPOSE ADMINISTRATIVE SANCTIONS AS PRESCRIBED IN THE REPORT OF INVESTIGATION.

4. NOTIFY THE ORIGINATOR OF THE CLASSIFIED MATERIAL THAT IT WAS COMPROMISED OR VIOLATED.

j. THE INVESTIGATING OFFICER SHALL:

1. FIX RESPONSIBILITY FOR THE COMPROMISE OR VIOLATION AND IDENTIFY THE RESPONSIBLE PERSON OR PERSONS. RESPONSIBILITY FOR A COMPROMISE OR A VIOLATION ALWAYS SHALL BE PLACE WITH A PERSON RATHER THAN WITH A POSITION OR OFFICE. WHEN RESPONSIBILITY MAY NOT BE PLACED WITH A SPECIFIC PERSON, **THE** IMMEDIATE SUPERVISOR OF THE OFFICE WHERE THE INCIDENT OCCURRED SHALL BE HELD RESPONSIBLE FOR THE VIOLATION.

2. OBTAIN A STATEMENT FROM THE PERSON OR PERSONS RESPONSIBLE FOR THE COMPROMISE OR VIOLATION. IF THE PERSON CHOOSES NOT TO MAKE A STATEMENT, THIS FACT SHALL BE INCLUDED IN THE INVESTIGATION REPORT.

3. RECOMMEND THE APPLICABLE ADMINISTRATIVE SANCTION AS PRESCRIBED IN CHAPTER 14, BELOW.

4. IF **THE** ORIGINATOR, EVALUATE THE COMPROMISED OR VIOLATED INFORMATION AND DETERMINE WHETHER THE SPECIFIC INFORMATION , OR PARTS THEREOF, SHALL BE MODIFIED , DECLASSIFIED, OR DOWNGRADED. IF NOT THE ORIGINATOR, THE INVESTIGATING OFFICER SHALL OBTAIN A WRITTEN DETERMINATION OF CLASSIFICATION FROM THE ORIGINATOR.

5. PREPARE A REPORT OF INVESTIGATION USING THE FORMAT IN **FIGURE 9** BELOW .

6-105 Responsibility of Authority Ordering Investigation

a. The report of investigation shall be reviewed to ensure compliance with this Regulation and instructions issued by DoD Components.

THE DIRECTOR, PSD, SHALL:

1. REVIEW **THE** REPORT OF INVESTIGATION TO ENSURE COMPLIANCE WITH THIS INSTRUCTION AND SUFFICIENCY OF CORRECTIVE ACTION AND ADMINISTRATIVE SANCTIONS.

2. MAINTAIN A RECORD OF COMPROMISES OR VIOLATIONS BY THE PERSON AND OSD COMPONENT CONCERNED , CONSISTING OF THE TYPE, CLASSIFICATION, SUMMARY OF KNOWN FACTS AND CIRCUMSTANCES , IDENTIFICATION OF PERSON OR PERSONS INVOLVED, AND SANCTION ADMINISTERED . THIS RECORD SHALL BE MAINTAINED FOR 2 YEARS AFTER REASSIGNMENT OR TERMINATION OF THE VIOLATOR ' S EMPLOYMENT.

3. MAINTAIN THE REPORTS OF INVESTIGATION OF A COMPROMISE OR VIOLATION FOR 2 YEARS FROM THE DATE OF THE REPORT.

b. The recommendations contained in the report of investigation shall be reviewed to determine sufficiency of remedial, administrative, disciplinary, or legal action proposed and, if adequate, the report of investigation shall be forwarded with recommendations through supervisory channels. See subsections 14-101 and 14-102.

c. Whenever an action is contemplated against any person believed responsible for the compromise of classified information, damage assessments shall be coordinated with the legal counsel of the DoD Component where the individual responsible is assigned or employed. Whenever a violation of criminal law appears to have occurred and a criminal prosecution is contemplated, the DoD Component responsible for the damage assessment shall apprise the General Counsel, Department of Defense. See subsection 14-104.

THE DIRECTOR, PSD, IN COORDINATION WITH THE CHIEF, PERSONNEL SECURITY DIVISION, DIRECTORATE FOR PERSONNEL AND SECURITY, WHS, SHALL INFORM THE DIRECTOR OF INFORMATION SECURITY, **ODUSD(P)**, OF A COMPROMISE OR VIOLATION THAT MEETS THE CRITERIA CONTAINED IN PARAGRAPHS 14-104 A.B.C. THROUGH 14-104 C., BELOW.

6-106 Responsibility of Originator

The originator or an official higher in the originator's supervisory chain shall, upon receipt of notification of loss or probable compromise of classified information, take action as prescribed in subsection 2-210.

6-107 System of Control of Damage Assessments

Each DoD Component shall establish a system of controls and internal procedures to ensure that damage assessments are conducted when required and that records are maintained in a manner that facilitates their retrieval and use within the Component.

6-108 Compromises Involving More Than One Agency

a. Whenever a compromise involves the classified information **or** interests of more than one DoD Component or other agency, each such activity undertaking a damage assessment shall advise the others of the circumstances and findings that affect their information and interests. Whenever a damage assessment incorporating the product of two or more DoD Components or other agencies is needed, the affected activities shall agree upon the assignment of responsibility for the assessment.

b. Whenever a compromise of U.S. classified information is the result of actions **taken** by **foreign** nationals, **by** foreign government officials, or by U.S. nationals employed by international organizations, the activity performing the damage assessment shall ensure, through appropriate intergovernmental liaison channels, that information pertinent to the assessment is obtained. **Whenever** more than one activity is responsible for the assessment, those activities shall coordinate the request prior to transmittal through appropriate channels.

6-109 Espionage and Deliberate Compromise

Cases of espionage and deliberate unauthorized disclosure of classified information to the public shall be reported in accordance with DoD Instruction 5240.4 and DoD Directive 5210.50 (references **(oo)** and **(pp)**) and implementing issuances.

THE DIRECTOR, PSD, SHALL IN COORDINATION WITH CHIEF, PERSONNEL SECURITY DIVISION, DIRECTORATE FOR PERSONNEL AND SECURITY, WHS, SUBMIT A REPORT IN ACCORDANCE WITH DOD DIRECTIVE 5210.50 (REFERENCE **(PP)**) **AND** DOD INSTRUCTION 5240.4 (REFERENCE **(00)**) WHEN THE COMPROMISE OR VIOLATION CONSTITUTES A **VIOLATION OF THE** CRIMINAL STATUTES OR FEDERAL CRIMINAL LAWS.

6-110 Unauthorized Absentees

When an individual who has had access to classified information is on unauthorized absence, an inquiry as appropriate under the circumstances, to include consideration of the length of absence and the degree of sensitivity of the classified information involved, shall be conducted to detect if there are any indications of activities, behavior, or associations that may be inimical to the interest of national security. When such indications are detected, a report shall be made to the DoD Component counterintelligence organization.

6-111 UNAUTHORIZED DISCLOSURE OF CLASSIFIED INFORMATION TO THE PUBLIC

a. PERSONNEL SHALL REPORT INCIDENTS OF UNAUTHORIZED APPEARANCES OF CLASSIFIED INFORMATION IN THE PUBLIC MEDIA AND UNAUTHORIZED DISCLOSURES OF CLASSIFIED INFORMATION TO A PERSON LIKELY TO RELEASE **THE** CLASSIFIED INFORMATION TO THE PUBLIC, WHETHER OR NOT THE INFORMATION IS ACTUALLY DISCLOSED TO **THE** PUBLIC, TO PSD. THIS APPLIES TO SUCH SUSPECTED INCIDENTS.

b. THE DIRECTOR , PSD , SHALL :

(1) EVALUATE REPORTS OF INCIDENTS IN CONSULTATION WITH THE **ASD(PA)** AND OFFICIALS HAVING PRIMARY SECURITY CLASSIFICATION JURISDICTION **OVER THE** INFORMATION CONCERNED ;

(2) IN CONSULTATION WITH CHIEF, PERSONNEL SECURITY DIVISION, DIRECTORATE FOR PERSONNEL AND SECURITY , DETERMINE WHETHER AN INVESTIGATION OF THE INCIDENT WOULD BE IN THE INTEREST OF NATIONAL SECURITY, AND;

(3) REFER THE INCIDENT, WITH A RECOMMENDED COURSE OF ACTION, TO THE DIRECTOR , WHS .

REPORTS OF UNAUTHORIZED ABSENCE SHALL BE MADE TO THE DIRECTOR, PSD .

REPORT OF INVESTIGATION FORMAT

MEMORANDUM FOR DIRECTOR , PHYSICAL SECURITY DIVISION (**PSD**) , WHS

SUBJECT : INVESTIGATION OF VIOLATION, (DATE OF VIOLATION)

CIRCUMSTANCES

1. ATTACH THE PSD MEMORANDUM STARTING THE INVESTIGATION AS ENCLOSURE A.
2. DESCRIBE THE CLASSIFIED MATERIAL INVOLVED , INCLUDING SUBJECT OR TITLE, DATE , NUMBER, ORIGINATOR, **AND** ORIGINAL OR DERIVATIVE CLASSIFICATION OF THE DOCUMENT .
3. STATE THE CIRCUMSTANCES OR FACTORS OF THE INCIDENT AND LOCATION OF THE INCIDENT . ATTACH A VIOLATION REPORT, WHEN AVAILABLE, AS ENCLOSURE B .

DISCUSSION

1. DISCUSS INFORMATION NEEDED FOR A REVIEWER TO UNDERSTAND THE BASIS AND RATIONALE **FOR THE** CONCLUSIONS AND RECOMMENDATIONS .
2. PROVIDE THE FOLLOWING DAMAGE ASSESSMENT INFORMATION , IF THE ORIGINATOR:
 - a. LIST **THE** NAMES AND OFFICE SYMBOLS OF THE ANALYST CONDUCTING **THE** ASSESSMENT .
 - b. IDENTIFY SPECIFIC STATEMENTS IN THE DOCUMENT THAT ARE CLASSIFIED . (THIS **MAY BE** DONE BY ATTACHING A COPY OF THE DOCUMENT WITH THE CLASSIFIED PORTIONS UNDERLINED .)
 - c. IDENTIFY , **EITHER IN** WHOLE OR IN PART , THE DOCUMENT THAT MAY BE DECLASSIFIED OR DOWNGRADED.
 - d. PROVIDE A COMPLETE BIBLIOGRAPHY OF ALL CLASSIFIED SOURCE MATERIALS USED IN PREPARING THE DOCUMENT .
 - e. LIST THE EFFECTS THAT THE DISCLOSURE OF THE CLASSIFIED DATA IN THE DOCUMENT **MAY** HAVE ON U.S. NATIONAL DEFENSE.
3. IDENTIFY THE PERSONS **INTERVIEWED** .

CONCLUSIONS

1. GIVE THE NAME AND LOCATION OF THE OSD COMPONENT WHERE THE VIOLATION OCCURRED .
2. IDENTIFY THE PERSONS INVOLVED AND ATTACH THEIR STATEMENTS AS ENCLOSURE C.

3. STATE THE CAUSE OF THE INCIDENT.

4. DETERMINE WHETHER THE PERSONS KNOWINGLY AND WILLFULLY VIOLATED ANY PROVISION LISTED ~~IN~~ PARAGRAPHS 14-104 A. THROUGH 14-104 B. , BELOW.

5. IF THE ORIGINATOR, DETERMINX THE SPECIFIC INFORMATION THAT MAY BE MODIFIED , DECLASSIFIED, OR DOWNGRADED.

RECOMMENDATIONS

1. RECOMMEND APPLICABLE SANCTIONS THAT MAY BE ATTACHED AS ENCLOSURE D .

2. LIST THE PROCEDURAL OR ADMINISTRATIVE CHANGES THAT MAY BE OR HAVE BEEN MADE TO PRECLUDE FURTHER VIOLATIONS:

3. RECOMMEND TO THE DIRECTOR, PSD , THAT THE VIOLATION BE REPORTED AS STATED IN PARAGRAPH 14-104 A. AND 14-104 B. , BELOW.

4. MODIFY , **DECLASSIFY** , ~~OR~~ DOWNGRADE ~~THE~~ 'DOCUMENT; IF POSSIBLE.

FIGURE 9